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Security Council Committee established pursuant to resolution 1540 (2004)

Letter dated 27 October 2004 from the Permanent Representative of Chile to the United Nations addressed to the Chairman of the Committee

I have the honour to refer to the note from the Chairman of the Committee requesting a national report on compliance with the obligations relating to the non-proliferation of weapons of mass destruction established by Security Council resolution 1540 (2004) (see annex).

(*Signed*) Heraldo **Muñoz**
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Annex to the letter dated 27 October 2004 from the Permanent Representative of Chile to the United Nations addressed to the Chairman of the Committee

1. Security Council resolution 1540, adopted unanimously on 28 April 2004, was a historic landmark which Chile, as a non-permanent member, was instrumental in shaping. Adopted under Chapter VII of the Charter of the United Nations, it is the first Security Council resolution to address the threats posed by possible linkages between non-State actors and the proliferation of weapons of mass destruction.

2. Chile firmly supports, and actively participates in, multilateral efforts to enhance the universal instruments of international disarmament law. At the same time, it recognizes that the forums and agencies of the disarmament system are not the only effective mechanisms at the international community's disposal for mounting a legal challenge to specific threats to international peace and security.

3. In Chile's view, therefore, resolution 1540, which deals with weapons of mass destruction, non-State actors and terrorism, will contribute to the effective implementation of those universal instruments. Of particular importance is the reference made in the resolution to the means of delivery of weapons of mass destruction, which are an integral aspect of the non-proliferation issue.

4. Universal instruments of international disarmament law and humanitarian law

Chile is a State party to the Treaty on the Non-Proliferation of Nuclear Weapons (TNP); the Treaty of Tlatelolco; the Comprehensive Nuclear-Test-Ban Treaty (CTBT); the 1925 Geneva Protocol (without reservations); the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (CBW); the Chemical Weapons Convention (CWC); the Convention on Conventional Weapons (CCW); the Ottawa Convention; and The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC).

5. Disarmament mechanisms

Chile also participates actively in the work of the international disarmament forums such as the Conference on Disarmament, the United Nations Disarmament Commission and the First Committee of the General Assembly, as well as of such treaty-based bodies as the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL); the Organization for the Prohibition of Chemical Weapons (OPCW); the Provisional Technical Secretariat of the Comprehensive Nuclear-Test-Ban Treaty Organization (CNTBTO); and the periodic mechanisms such as review conferences, conferences of States parties and intersessional meetings.[1]

6. Recent and ongoing measures at the national level

Chile is implementing a series of measures to ensure full compliance with its obligations under the aforementioned universal instruments and resolution 1540, as well as under all the associated review conferences. These measures are being developed over time and some, particularly those requiring legislative action, will

[1] Chile is also a party to the 12 international conventions on counter-terrorism.

take at least a year, possibly more. They are all part of a process that predates resolution 1540 and is due to be completed in the medium term. Chile will provide you with an account of its progress with these measures in the periodic reports required under the resolution.

The measures implemented or under way are as follows:

6.1 Additional Protocol to the Agreement between Chile and the International Atomic Energy Agency (IAEA) for the Application of Safeguards

Chile is convinced of the need to halt the proliferation of nuclear weapons and to prevent, detect and respond to improper uses of nuclear and radioactive materials, and accordingly has joined the strengthened safeguards regime: Ambassador Raimundo González, head of the Chilean delegation, signed the Additional Protocol on the application of safeguards in 2002, during the IAEA General Conference. The procedures for its entry into force in Chile were completed in November 2003.

In accordance with article 2 of the Protocol, and within the permitted time frame, Chile submitted to IAEA, on 3 May 2004, an initial declaration describing its current nuclear status. In addition, in order to promote the universalization of the Protocol within the region, the Chilean Nuclear Energy Commission, in cooperation with IAEA, organized a seminar in 2003 to train officials and experts in the new obligations under the Protocol.

6.2 Nuclear safety: maritime transport of spent nuclear fuel and radioactive waste

Chile has been working actively within IAEA for the multilateral regulation of maritime transport of spent nuclear fuel and radioactive waste, nuclear materials that represent a security risk in the event of use of radiological weapons by non-State actors.

Chile advocates a developed regulatory framework which includes, among other important elements: (a) prior notice to coastal States of transit of such nuclear materials through the waste waters under their jurisdiction; (b) communication of contingency plans in case of accident; (c) application of the principle of strict liability in the event of an accident; (d) obligation to recover cargoes in the event of a release of radioactive materials; and (e) insurance coverage for all resulting damage and injury. A universal regulatory environment of that kind would enhance coastal States' ability to improve the safety of maritime transport of nuclear materials.

6.3 Nuclear-weapon-free zones

Chile considers nuclear-weapon-free zones to be an effective instrument both for non-proliferation and for nuclear disarmament. It therefore firmly supports the work of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL), including the initiative to convene a conference of States parties signatories to the nuclear-weapon-free zone treaties.

This conference is to be held in advance of the 2005 NPT Review Conference and will provide an opportunity to coordinate positions and exchange views on how best to improve the effectiveness of such zones, which closely complement multilateral efforts to promote nuclear disarmament.

6.4 **Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)**

In order to comply fully with Chile's obligations under CWC, a bill has been submitted to Congress which, among other regulatory measures, will list toxic chemical substances (a) whose action causes physiological effects such as death, permanent harm or permanent or temporary incapacitation to living beings; and (b) can be used in the production of chemical weapons or as a basis for the production of "unitary or binary projectiles, rockets, missiles, bombs, warheads or cartridges containing them, their precursors, munitions or devices expressly designed to cause death or harm through the toxic properties of such chemical substances and their precursors ...".

Under this bill, the Ministry of Defence, through the Department of National Mobilization, will be the State body responsible for supervision and control of the substances and items covered by the legislation, subject to the international conventions in force in Chile. The legislation will also govern industrial complexes, laboratories and facilities intended for the storage, holding, use, production or preparation of chemical substances or their precursors subject to control under the international treaties to which Chile is a party, as well as the components used in the corresponding physical and chemical processes.

At the same time, Chile plays an active part in the implementation of article X of CWC. In particular, it proposes a broader interpretation of article X in order to ensure greater cooperation within the region and with the Organization for the Prohibition of Chemical Weapons (OPCW) in the event of chemical accidents. As you are aware, the countries of Latin America and the Caribbean do not possess chemical weapons, but many of them have sizeable chemical industries or use chemical products. Consequently, the threat of a chemical incident, which could also be caused by a terrorist attack, should trigger the assistance and protection mechanisms envisaged under article X of the Convention.

6.5 **Legislation, including criminal legislation, implementing specific provisions of international disarmament law**

Following the adoption of resolution 1540, the Ministry of Foreign Affairs established an inter-ministerial working group made up of all the ministries, offices and public services which, by virtue of their spheres of competence, have a part to play in the Chilean State's fulfilment of its obligations under international disarmament law. Represented in the group are the Ministries of the Interior, Defence, Justice and Health; the Office of the Minister and Secretary-General of the Presidency and the Office of the Minister and Secretary-General of Government; the Public Prosecutor's Office; the National Intelligence Agency; the Department of Territorial Waters and the Merchant Marine; the Department of National Mobilization; the Department of Customs and Excise; and the Department of Civil Aviation.

The group's brief is to consider and recommend concrete measures of a legislative and administrative nature to strengthen and enhance Chile's compliance with the universal instruments mentioned above, in accordance with resolution 1540. These should include preventive measures, such as improved export controls, as well as palliative and criminal measures.

Accordingly, a legal sub-working group has been established to prepare draft legislation providing definitions and penalties relating specifically to conduct prohibited under international disarmament law but not yet covered by general legislation (notably counter-terrorist legislation).

The Government considers that the working group and any sub-groups it may establish should work through to the end of 2005. It will keep the Security Council informed in that regard through your good offices.

6.6 The Hague Code of Conduct against Ballistic Missile Proliferation

The preventive component of resolution 1540 cannot be fully realized without addressing the serious issue of the means of delivery of weapons of mass destruction. The only regulatory text covering delivery systems is The Hague Code of Conduct (HCOC), to which Chile is an original subscribing State.[2]

HCOC, a politically binding text negotiated and finalized through an open-ended process similar to that which produced the Ottawa Convention, seeks to curb the proliferation of this type of weapons system through self-restraint and vigilance. It also promotes international security through transparency and confidence-building measures (annual reports on ballistic missile and space launch vehicle policies and programmes, and advance notification of ballistic missile and space launch vehicle launches).

Chile assumed the Chairmanship of HCOC in October 2003 and will exercise that function until November 2004. During its Chairmanship it has pressed on with the universalization of the Code, which to date has 117 subscribing States. In addition, pursuant to a mandate from the subscribing States, it introduced, on behalf of 115 sponsors, draft resolution A/C.1/59/L.50, the basic purpose of which was to establish a functional link between HCOC and the United Nations system. The draft resolution was adopted by the First Committee on 26 October by 137 votes in favour, 2 votes against and 16 abstentions.

The Code should be seen as a first response on the part of the international community to the threat posed by the proliferation of ballistic missiles and the possibility of their use by non-State actors. As such, it is the first step in a process that could, in time, lead to the adoption of a multilaterally negotiated treaty regulating the delivery systems of weapons of mass destruction.

7. Conclusion

Chile has committed itself to full and effective compliance with resolution 1540, an undertaking made as part of a State policy in which the maintenance of international peace and security is one of the key priorities of foreign and defence policy. The effects of this decision can be seen not only in the United Nations context but also in the regional sphere. Thus, Chile cooperates in the various activities on security, including non-proliferation, launched at the 2003 Asia-Pacific Cooperation Leaders' Meeting in Bangkok.

In the light of the foregoing, you may be assured of Chile's desire to contribute to the success of this resolution and to cooperate effectively with the Committee under your esteemed guidance.

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[2] The Code and details of related activities were published in documents A/57/724 and A/58/595-S/2003/1091.